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SOA-193 (80000-054)

08/941,832

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In the Patent Application of

G. CHACON

Serial No. 08/941,832

Filed: **October 1, 1997**

For: ELECTRONIC KANBAN WORK-
SHEET FOR THE DESIGN AND
IMPLEMENTATION OF VIRTUAL
OR ELECTRONIC KANBAN
SYSTEM

Group Art Unit: 2123

Examiner: H. Jones

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BOARD OF PATENT APPEALS
AND INTERFERENCES

COMMENTS TO EXAMINER'S RESPONSE TO SECOND BOARD REMAND

Board of Patent Appeals and Interferences
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper captioned "Comments to Examiner's Response to Second Board Remand" is for the file, and to present arguments to be proffered at oral argument. It is requested that this be considered by the Board as part of the file history, and not as a Supplemental Reply Brief under 37 C.F.R. 1.192 responding to a Supplemental Examiner's Answer, also known as the Examiner's Response to Second Board Remand dated June 2, 2004 (Paper No. 37).

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REMARKS

Appellant acknowledges receipt of the Examiner's Response to Second Board Remand dated June 2, 2004 (Paper No. 37).

Appellant makes the following observations based on the Examiner's Response to Second Board Remand dated June 2, 2004 (Paper No. 37):

1. the 35 USC §102(b) rejections of claims 37-50 as allegedly anticipated by U.S. Patent 5,544,348 to Umeda et al. are withdrawn;
2. the only remaining rejections are that claims 37-50 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Seppanen, Kanban Simulator Using Siman and Lotus 1-2-3, IEEE Winter Simulation Conference Proceedings, 1993, 838-844 (Seppanen);
3. Of the pending claims 37-50, claims 37-40 stand or fall together, and claims 41-50 stand or fall together, with respect to the §102 rejections;
4. The Examiner's Response to Second Board Remand dated June 2, 2004 (Paper No. 37) only discusses and maps independent method claim 41, and does not address the apparatus claims 37-40. While the Board Remand Order requested that for any of the section 102 rejections to be maintained, "an Answer must point out where all the specific limitations recited in the rejected claims are found in the prior art relied upon. For each rejection over the prior art, the examiner should align the language of the representative claim side by side with reference to the specific page, line number, drawing reference number and quotation from the prior art, as appropriate." See page 4, first full paragraph. However, the Examiner's Response did not address the separate groupings of claims.

Regarding item 4, above, as no mapping of the apparatus claims has occurred, Appellants affirm all previous arguments and discussions regarding the §102 rejection of claims 37-40, as no

clarification of the rejection of these apparatus claims has been presented. Accordingly, Appellant believes that the rejection of claims 37-40 cannot be sustained, as no mapping of the claim elements have occurred, and the examiner has simply restated the rejection with respect to Seppanen.

Regarding the interpretation of claim 41 in the Examiner's Response to Second Board Remand dated June 2, 2004 (Paper No. 37), Appellants stand by the Summary of the Invention in the Reply Brief filed November 13, 2001. Appellants further note that the Examiner's interpretation of the claim states unambiguously "that nothing is being controlled. Such a feature is simply not claimed." Still further, the Examiner asserts that "A manufacturing system is not being claimed." See Examiner's Response to Second Board Remand dated June 2, 2004 (Paper No. 37) at page 4, lines 17 and 20. The Examiner later states that the preamble is not being given any patentable weight. See Examiner's Response to Second Board Remand dated June 2, 2004 (Paper No. 37) at page 8, lines 15-17. Appellant disagrees.

Claim 41 recites:

41. A method for controlling a manufacturing production line using a virtual kanban system, the method comprising the steps of:

- storing production line feedback data in a database;
- inputting said feedback data into a production scheduling model that includes the virtual kanban system and generating an electronic kanban;
- inputting the electronic kanban and the feedback data to a simulator and simulating the manufacturing production line; and
- determining the validity of the electronic kanban;

wherein the feedback data comprises a first data set specifying a type of equipment in the production line and a second data set specifying at least one of operating status of equipment, product lot status and production inputs status.

It can be clearly seen from this claim that the manufacturing production line recited in the preamble is used in the body of the claim in discussing the first data set, and accordingly,

provides antecedent basis, and therefore must be considered. As stated previously by Appellants, all claim elements must be considered when interpreting these claims.

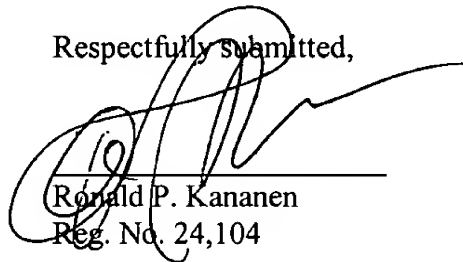
As Appellant disagrees with the Examiner's claim interpretation, Appellant asserts that the claim mapping presented in the Examiner's Response to Second Board Remand dated June 2, 2004 (Paper No. 37) is accordingly based on erroneous and unsupported claim interpretation, and is therefore not based on a mapping of the claim elements as recited in the claims.

All sections of the Reply Brief filed November 13, 2001 remain in effect except those section mooted by the examiner's withdrawal of the §112 rejections and various withdrawal of the §102 rejections.

Appellant submits that the final rejection of claims 37-50 as amended by the Examiner's Response to the Second Board Remand dated June 2, 2004 (Paper No. 37) should not be sustained. Therefore, a reversal of the Final Rejection of January 3, 2001, as modified, as to claims 37-50, is respectfully requested.

Respectfully Submitted,

DATE: September 9, 2004



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